



## U.S. DEPARTMENT of STATE

### Gambia, The

#### Country Reports on Human Rights Practices - [2003](#)

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The Gambia is a republic under multiparty democratic rule. President Alhaji Yahya A.J.J. Jammeh was re-elected for a 5-year term in 2001 in an election considered free and fair, despite some shortcomings. The main opposition coalition initially accepted the results of the presidential elections but later changed its position and boycotted the legislative elections in 2002. President Jammeh's political party, the Alliance for Patriotic Reorientation and Construction (APRC), won majorities in the National Assembly and most local councils. The multiparty opposition remained weak and divided. Although the courts have demonstrated their independence on occasion, the judiciary, especially at lower levels, was at times corrupt and subject to executive branch pressure.

The Gambian Armed Forces reports to the Secretary of State (Minister) for Defense, a position held by the President. The police report to the Secretary of State for the Interior. The National Intelligence Agency (NIA), responsible for protecting state security, collecting intelligence, and conducting covert investigations, reports directly to the President. Civilian authorities generally maintained effective control of security forces. There were a few instances in which members of the security forces acted independently of government authority. Some members of the security forces committed human rights abuses.

The country's market-oriented economy encouraged growth through the development of the private sector. Much of the country's population of 1.4 million was engaged in subsistence farming. The high population growth rate diminished the effects of modest economic expansion in recent years. During the year, per capita gross domestic product declined to less than \$300 due to the sharp depreciation of the national currency.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. Despite some election deficiencies, citizens generally were able to exercise their right to change their government through periodic elections. Security forces harassed or otherwise mistreated journalists, detainees, prisoners, and opposition members. Prison conditions remained Spartan but generally good. Arbitrary arrest and detention were problems; however, unlike in the previous year, there were no reports of incommunicado detention. Prolonged pre-trial detention was a problem. Detainees were denied fair and expeditious trials by a slow, inefficient, and corrupt court system. There was one known political prisoner. The Government at times infringed on citizens' privacy rights. The Government limited freedom of speech and the press by intimidation and restrictive legislation. Some journalists practiced self-censorship. Unlike in previous years, the Government did not restrict freedom of assembly. Violence and discrimination against women were problems. The practice of female genital mutilation (FGM) remained widespread and entrenched. Child labor persisted, mainly on family farms, and there were some instances of child prostitution. There were a few reports of trafficking.

#### RESPECT FOR HUMAN RIGHTS

##### Section 1 Respect for the Integrity of the Person, Including Freedom From:

###### a. Arbitrary or Unlawful Deprivation of Life

There were no reports of arbitrary or unlawful deprivation of life committed by the Government or its agents during the year.

No action was taken, nor is any likely to be taken, in the following 2001 cases: The January killing of Bakary Ceesay or the October killing of Hussein Wane and Ousman Ceesay in separate incidents.

The Indemnity Act stipulates that "the President may, for the purpose of promoting reconciliation in an appropriate case, indemnify any person he may determine, for any act, matter or omission to act, or things done or purported to have been done during any unlawful assembly, public disturbance, riotous situation or period of public emergency." This law continued to prevent victims from seeking redress in some cases.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution prohibits such practices; however, there were reports that government officials beat and on occasion tortured persons. There continued to be reports that security forces, notably soldiers acting outside the chain of command, mistreated civilians. The army requested that victims file formal complaints so that the cases could be investigated; however, there were no prosecutions of soldiers accused of torturing individuals during the year.

For example, on March 27, three soldiers beat Karamo Marong, a controller at the Banjul ferry terminal. Marong claimed he was beaten because he insisted the soldiers, who were purportedly on an official mission, pay the crossing fee. No known action was taken against the responsible soldiers by year's end.

On April 8, soldiers on duty at the Abuko Earth Station allegedly detained and beat Lamin Cham and Ebrima Ceasay after a man reported that they stole his satellite antenna--an accusation both denied. Cham and Ceasay claimed the soldiers stripped them naked, doused them with water, and flogged them with cables for most of the day. They were released without charge; however, no known action was taken against the responsible soldiers by year's end.

On July 23, Hassan Jobe, the chief of Sanchaba Sulay Jobe village, reported that soldiers brutalized him and his family members. Jobe stated that his grandson, Ousman Njie, was beaten unconscious. His wife was struck on her mouth and lost a front tooth. The soldiers allegedly used rifle butts to beat the Jobe family after a heated dispute at a phone booth. The army completed its investigation of the alleged attack in September. The army advised the family to take legal action in the civil courts and agreed to produce the soldiers for trial. There was no additional action taken by year's end.

No action was taken, nor was any likely to be taken, against the security personnel who beat or otherwise abused persons in the following cases from 2001: The February beating of John Seneise; the April beating of Brian Secka; and the June beating of three athletes in Kanifing.

No action was taken against those responsible for election violence in 2001.

Conditions at Mile 2, Janjanbureh, and Jeshwang prisons remained Spartan but adequate. In August, representatives from the African Commission on Human and Peoples Rights and the International Committee of the Red Cross (ICRC) visited Mile 2 and Jeshwang prisons and reported that conditions were good. Prisoners received three meals a day, each prison had an infirmary, and outside doctors were brought in to provide additional medical care when required; however, the ICRC also reported that the psychological conditions in the prisons were "hard." For example, maximum-security prisoners were confined to small, individual cells for 21 hours each day and were permitted few family visits.

Unlike in previous years, there were no reports of beatings and malnourishment of detainees during the year. Local jails continued to experience overcrowding. Inmates, including detainees awaiting trial, occasionally had to sleep on the floor; they were provided with mats or blankets. Prison guards were reluctant to intervene in fights between prisoners, and some of the prisoners were injured.

Women were held separately from men. Juveniles were held separately from adults, and pretrial detainees were held separately from convicted prisoners. There was no separate section or facility for political prisoners.

The Government permitted independent monitoring of prison conditions by local and international human rights groups.

d. Arbitrary Arrest, Detention, or Exile

The Constitution prohibits arbitrary arrest and detention; however, police and security forces at times arbitrarily arrested and detained citizens. Periods of detention generally ranged from a few hours to 72 hours, the legal limit after which detainees must be charged or released.

The police served under the Secretary of State for the Interior. The police generally were corrupt and on occasion acted with impunity and defied court orders.

The Government has not formally revoked military decrees enacted prior to the 1997 Constitution that give the NIA and the Secretary of State for the Interior broad power to detain individuals indefinitely without charge "in the interest of national security." The Constitution provides that decrees remain in effect unless inconsistent with constitutional provisions. These detention decrees appeared to be inconsistent with the Constitution, but they have not been subject to judicial challenge. The Government has stated that it no longer enforced these decrees; however, in some instances, the Government did not respect the constitutional requirement that detainees be brought before a court within 72 hours. Detainees often were released after 72 hours and instructed to report to the police station or NIA headquarters periodically until their case went to trial. During the year, there were five known cases that exceeded the 72-hour limit. Unlike in previous years, there were no reports that detainees were held incommunicado.

The law requires that authorities obtain a warrant before arresting a person; however, on occasion individuals were arrested without a warrant. Detainees generally were permitted prompt access to family members and legal counsel. There was a functioning bail system.

On January 22, the NIA detained Dr. Ahmed Gibril Jassey, the elected chairman of the Brikama Area Council for 6 days without charge. Jassey's arrest came a week after the Secretary of State for Local Government had suspended him for alleged mismanagement of funds. Some observers criticized the actions, arguing that the suspension and arrest of an elected local government official without a full investigation contravened the Local Government Act.

In June, NIA officers seized eight diamonds, \$205,560 in currency, and other possessions from two visiting German businessmen, Dr. Frank Mahier and Niklas Wesphal, and told them to leave the country. Their local partner, Dr. Al Lamin, was briefly detained for reporting the matter to the police. The NIA officers involved were dismissed after a commission of inquiry found them culpable.

On December 27, police arrested National Assembly Majority Leader Baba Jobe with 3 associates while they were on their way from Jarra Karantaba to Banjul. Police detained Jobe, who was already on trial for economic crimes and was free on bail, at the Yundum Police Training Center without charge for more than the constitutionally prescribed limit of 72 hours. Police ignored a December 31 court-ordered writ of habeas corpus to release Jobe and his co-detainees.

Security forces at times briefly detained journalists and persons who publicly criticized the Government or who expressed views in disagreement with the Government (see Section 2.a.).

No action was taken in the 2001 cases of UDP activist Kassa Jatta; UDP activist Musa Fatty; former vice president of the Gambia Student Union Alagie Nyabally; opposition supporter Dr. Momodou Lamin Manneh; Citizen FM Radio director George Christensen; and Muhammed Lamin Sillah from Amnesty International. The NIA released all without charge except for Sillah, who was charged with inciting genocide and confusion, and attempting to overthrow the Government. He was awaiting trial at year's end.

During the year, the trial continued of Ebrima Yabo, Ebrima Barrow, Momodou Marenah, and Dumo Saho, who were detained in 2000 on suspicion of attempting to violate state security. On July 29, the High Court acquitted two other military co-defendants, Lalo Jaiteh and Omar Darboe, due to lack of evidence. According to the army, the two soldiers were reinstated but discharged shortly thereafter for "security reasons." No additional action was taken against them. In October, Momodou Marenah was acquitted and released; however, the remaining three accused civilians remained in jail awaiting trial at year's end.

The slow pace of the justice system resulted in detainees waiting long periods in pre-trial detention. Approximately 40 of Mile 2 Prison's 230 inmates were in detention pending trial. Most of the detainees were in the detention wings of the Mile 2 and Janjanbureh prisons. Some have been incarcerated for more than 4 years without trial.

The Constitution prohibits forced exile, and the Government did not use it. After a formal reconciliation, former

president Sir Dawda Jawara was free to return to the country and did so during the year. Other senior officials of the former government, including Vice President Saihou Sabally and Secretary General Abdou Sara Janha, remained outside the country, reportedly for fear of harassment or detention, but they did not face formal charges.

#### e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary; however, in practice, the courts, especially at the lower levels, were corrupt and subject to executive branch pressure at times. Nevertheless, the courts have demonstrated independence on several occasions, including in significant cases. For example, in December, High Court Justice Wallace Grante issued a writ of habeas corpus when National Assembly leader Baba Jobe was detained longer than the 72 hours prescribed by the Constitution.

The Constitution provides for a fair trial; however, the judicial system suffered from corruption, particularly at the lower levels, and from inefficiency at all levels. Many cases were not heard for months or years because the court system was overburdened and lacked the capacity to handle the high volume of cases. To alleviate the backlog and reduce the possibility of undue influence and corruption, the Government continued to recruit judges and magistrates from other Commonwealth countries who share a similar legal system. The Attorney General oversees the hiring of foreign judges on contract. The Government reserves the right not to renew a judge's contract. Foreign judges were generally less susceptible to corruption and executive branch pressure. Despite these steps, corruption in the legal system persisted.

The judicial system is comprised of the Supreme Court, the Court of Appeal, high courts, and eight magistrate courts. Village chiefs presided over local courts at the village level.

Trials are public, and defendants have the right to an attorney at their own expense. Defendants are presumed innocent, have the right to confront witnesses and evidence against them, present witnesses on their own behalf, and appeal judgment to a higher court.

The judicial system recognizes customary, Shari'a (Islamic law), and general law. Customary law covers marriage and divorce for non-Muslims, inheritance, land tenure, tribal and clan leadership, and other traditional and social relations. Shari'a was observed primarily in Muslim marriage and divorce matters; it favored men in its provisions. General law, following the British model, applied to felonies and misdemeanors in urban areas and to the formal business sector.

Persons have been held for extended periods pending trial (see Section 1.d.).

The trials of two UDP supporters charged with breach of peace in January for allegedly playing a UDP political rally videocassette on the Bantanto community television station remained pending at year's end.

At year's end, UDP leader Ousainou Darboe and UDP members Shyngle Nyassi and Marong remained free on bail awaiting trial for murder in a 2000 case.

There was one known political prisoner, Lieutenant Sana Sabally, a former vice chairman of the now defunct Armed Forces Provisional Ruling Council (AFPRC) (the military council established after the 1994 coup), who was serving 9 years at Mile 2 Prison in Banjul for conspiring to assassinate the President in 1995. Human rights organizations were not permitted access to him.

#### f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution prohibits such abuses; although the Government generally respected these prohibitions, there were some exceptions. The Government has not repealed Decree 45, which abrogates constitutional safeguards against arbitrary search and permits search and seizure of property without due process. This decree formally remained in effect, pending a judicial finding that it is unconstitutional. In practice, the Government did not use it. In some instances, security forces forcibly entered homes to arrest citizens without warrants.

Observers believed the Government monitored citizens engaged in activities that it deemed objectionable.

Section 2 Respect for Civil Liberties, Including:

#### a. Freedom of Speech and Press

The Constitution provides for freedom of speech and the press; however, the Government limited freedom of speech and the press by intimidation and restrictive legislation. Journalists practiced a degree of self-censorship.

On occasion, security forces detained persons who publicly criticized the Government or who expressed views in disagreement with the Government. For example, on January 27, NIA officers arrested and detained Kemesseng Jammeh, a member of the opposition UDP for 2 days without charge after the Independent newspaper published a statement he reportedly made at a UDP rally in Talinding, which inaccurately accused the Government of misappropriating a \$200,000 donation for farmers.

On September 30, the NIA arrested Lamin Waa Juwara, leader of a small opposition political party, the National Democratic Action Movement after he allegedly called for citizens to overthrow the Government. Juwara was turned over the Serious Crimes Division of the Gambian Police, charged with sedition, and ultimately released on bail.

The Government published one newspaper, The Gambia Daily. The Daily Observer, although privately owned, tended to favor the Government in its coverage. There were four other independent newspapers, including one published by an opposition political party. There was one independent weekly magazine.

The Government generally did not restrict the publication, importation, or distribution of written material. English, French, and other foreign newspapers and magazines were available. The ruling APRC and opposition parties freely distributed leaflets and papers that could be considered "political literature" during the year.

During the year, one government-owned and four private radio stations broadcast throughout the country. There were frequent public affairs broadcasts on at least two independent radio stations. Local stations rebroadcast the British Broadcasting Corporation, Radio France Internationale, and other foreign news reports, and all were available via short-wave radio. Both government-owned and privately owned satellite television were available in many parts of the country. The Government allowed unrestricted access to satellite television, and residents who could afford to do so received independent news coverage via satellite dish.

During most of the year, government-owned television and radio gave very limited coverage to opposition activities, including statements by opposition parliamentarians in the National Assembly.

Citizen FM, known in the past for its civic education and political programming, remained closed at year's end.

During the year, security forces detained journalists. The Government detained, questioned, and otherwise harassed journalists and editors of newspapers that published articles it considered inaccurate or sensitive. For example, on June 30, NIA officers arrested and detained for 3 hours without charge Alhagi Yorro Jallow, editor of The Independent newspaper, allegedly for publishing an erroneous report that two persons were killed in a Gambia-Senegal border clash following a violent football match in June between the two countries.

On September 20, Abdoulie Sey, editor-in-chief of The Independent newspaper, was detained for 3 days and released without charge after allowing the publication of an article that criticized President Jammeh.

Decrees 70 and 71 continued to inhibit free reporting. The decrees require all newspapers to post a \$3,000 (100,000 dalasi) bond or cease publication. The bond was required to ensure payment of any penalties imposed by a court for the publication of blasphemous or seditious articles or other libel. Independent newspaper publishers complained that the bond placed a serious financial burden on them.

Although the nongovernment press practiced a degree of self-censorship, the press frequently voiced strong, direct criticism of the Government, and opposition views regularly appeared in the independent press.

In 2002, the National Assembly passed a National Media Commission Act, which gave a state-appointed committee the right to license and register journalists (and to impose heavy fines and suspension for failure to do so), force reporters to reveal confidential sources, issue arrest warrants to journalists, and formulate a journalistic code of ethics. The Media Commission is chaired by a senior magistrate, named by the Chief Justice of the Supreme Court, and includes the Permanent Secretary of the Department of State for Information and Technology, the Director General of Gambia Radio and Television Services, a journalist appointed by the Government (since

the Gambia Press Union (GPU) declined to participate), and representatives from civil society, namely from the Women's Bureau, the Gambia Teachers Union, the Supreme Islamic Council, the Gambian Christian Council, and the Gambia Bar Association. In August, the GPU, the bar association, and independent media practitioners filed applications in the Supreme Court to contest the constitutionality of the Media Commission Act. In September, the Government proposed and the National Assembly adopted several amendments to the Act to eliminate the most controversial provisions of the original text. The National Assembly removed the Commission's power to judge complaints against media practitioners and media organizations and returned this power to the jurisdiction of the magistrate courts and the High Court. The Media Commission can receive and investigate complaints but cannot pass judgment. In December, the Supreme Court met to rule on the Media Commission's constitutionality; however, a quorum of justices refused to sit, leaving the Media Commission without legal standing.

The Government allowed unrestricted Internet access and operation. Convenient, inexpensive Internet access existed at numerous Internet cafes and through private accounts.

The Government did not restrict academic freedom.

#### b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of assembly, and, unlike in previous years, the Government generally respected this freedom in practice.

The Constitution provides for freedom of association, and the Government generally respected this right in practice. The AFPRC's Decree 81 requires nongovernmental organizations (NGOs) to register with the National Advisory Council, which has the authority to deny, suspend, or cancel the right of any NGO to operate, including that of international NGOs. However, the Government did not take action against any NGOs during the year.

#### c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

On July 22, President Jammah reversed a May Ministry of Education decision to allow students to wear veils to school. The President decided that each school administration should determine its own policy.

For a more detailed discussion, see the [2003 International Religious Freedom Report](#).

#### d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for these rights but allows for "reasonable restrictions," which the Government at times enforced. The Government prohibited those under investigation for corruption or security matters from leaving the country.

The law provides for the granting of asylum or refugee status to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. In practice, the Government provided protection against refoulement and granted refugee status or asylum. The Government cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations. The Government worked with the UNHCR and local NGOs in processing refugee claims. The country hosted approximately 3,500 Senegalese refugees from the troubled Casamance region, as well as approximately 7,000 additional refugees from Guinea-Bissau, Liberia, and Sierra Leone. During the year, fewer than 100 Sierra Leonean refugees were repatriated under UNHCR auspices.

The Government also provides temporary protection to certain individuals who fall outside of the definition of the 1951 U.N. Convention Related to the Status of Refugees or its 1967 Protocol.

#### Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in presidential, legislative, and local elections. The Constitution provides for the democratic elections of the President and National Assembly every 5 years. The APRC remained the dominant political party.

In 2001, the National Assembly passed several amendments that reduced the power of the Independent Electoral Commission (IEC) to control many fundamental election matters. The National Assembly gained the power to set the registration requirements for political parties and change constituency boundaries; local chieftaincies became presidential appointments instead of elected positions; voter registration requirements were relaxed; and the IEC lost the right to question voters about their citizenship during the registration process.

International observers described the 2001 presidential electoral process as generally free and fair, despite some shortcomings. President Jammeh won approximately 53 percent of the vote. The opposition political parties initially conceded the elections but then accused the Government of bribing voters and issuing threats, both explicit and veiled, against individuals and communities that did not support the incumbent. Observers agreed there probably were some irregularities in the registration process but on a much smaller scale than the UDP/PPP/GPP coalition alleged. The post-election period was marred when Jammeh fired more than 20 village heads and civil servants who had not expressed public support for him during the campaign or who had been accused of corruption or incompetence; security forces also arrested and detained many opposition supporters throughout the country.

The major opposition coalition boycotted the January 2002 National Assembly elections accusing the IEC of allowing fraudulent voter registrations and mismanaging both the presidential and national elections. The boycott was criticized widely as unjustified and as an inappropriate response to the alleged fraud and left many of the opposition's own candidates unfunded and unsupported during the elections. The APRC won the majority for the National Assembly. The Democratic Organization for Independence and Socialism won two seats and the National Reconciliation Party won one seat. The President appointed 4 members of his own party and 1 former opposition presidential candidate to the 48-member National Assembly.

In April 2002, local elections were held that were considered generally free, fair, and transparent; however, the UDP boycotted the local elections, which allowed the APRC to run unopposed for many seats. There were unsubstantiated reports of vote buying by the APRC and opposition parties.

Approximately 55 percent of women registered to vote in the 2001 presidential and the 2002 legislative elections. There were 7 women in the 48-seat National Assembly; 3 were elected, 4 were appointed by the President. There were 3 women in the 15-member Cabinet, including the Vice President.

There were no statistics available on the percentage of minorities who compose the legislature or the cabinet. President Jammeh and many members of his administration were from the previously marginalized minority Jola ethnic group.

#### Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views.

#### Section 5 Discrimination Based on Race, Sex, Disability, Language, or Social Status

The Constitution prohibits discrimination based on race, sex, disability, language, or social status, and the Government generally enforced these prohibitions. There was no evidence of societal or official discrimination against persons infected with the HIV/AIDS virus.

#### Women

Domestic violence, including abuse, was a problem. It was reported occasionally, and its occurrence was believed to be common. Police considered these incidents to be domestic issues outside of their ordinary jurisdiction. Rape, spousal rape, and assault are crimes under the law; rape was not common. The law against spousal rape was difficult to enforce effectively, as many people did not consider spousal rape a crime and failed to report it.

The practice of FGM remained widespread and entrenched. Between 60 and 90 percent of women have undergone FGM. Approximately seven of the nine major ethnic groups practiced FGM at ages varying from shortly after birth until 16 years old. FGM was less frequent among the educated and urban segments of those groups. There were unconfirmed reports of incidences of health-related complications, including deaths, associated with the practice of FGM; however, no accurate statistics were available. The Government publicly supported efforts to

eradicate FGM and discouraged it through health education; however, authorities have not passed legislation against FGM, which was not considered a criminal act. President Jammeh stated that the Government would not impose a ban on FGM, but his administration worked to convince traditional village leaders to abandon the practice. Practitioners of FGM and other types of circumcision in the country believed that Islam mandates it; however, at least one influential imam declared that Islam forbids such harmful customs.

Prostitution is illegal but was a problem, especially in the tourist areas. The Government expelled numerous foreign prostitutes. In May, the newly established Law Enforcement Unit of the Immigration Department, in collaboration with the Drug Squad Unit of the police, carried out an operation to rid the greater Banjul area of petty criminals, illegal immigrants, prostitutes, and others. Many of the foreign prostitutes arrested as a result of the operation were subsequently deported.

There are no laws against sexual harassment. Although individual instances of it have been noted, sexual harassment is not believed to be widespread.

Traditional views of women's roles resulted in extensive societal discrimination in education and employment. Employment in the formal sector was open to women at the same salary rates as men. No statutory discrimination existed in other kinds of employment; however, women generally were employed in such places as food vending or subsistence farming.

Shari'a law is applied in divorce and inheritance matters for Muslims, who make up more than 90 percent of the population. Women normally received a lower proportion of assets distributed through inheritance than did male relatives. Christian and civil marriages and divorce matters were settled by the appropriate church and the Office of the Attorney General.

Marriages often were arranged and, depending on the ethnic group, polygyny was practiced. Women in polygynous unions have property and other rights arising from the marriage. They have the option to divorce, but not a legal right to approve or be notified in advance of subsequent marriages.

The Department of Women's Affairs, under the direction of the Vice President, oversees programs to ensure the legal rights of women. Active women's rights groups exist.

#### Children

The Government was committed to children's welfare. The Department of Education and the Department of Health and Social Welfare were the two most generously funded government departments; however, lack of resources limited state provision of both education and health services.

The Constitution mandates free compulsory primary education up to 8 years of age, but the state of the educational infrastructure prevented effective compulsory education, and children must still pay school fees. Girls constituted approximately 40 percent of primary school students and roughly one-third of high school students. The enrollment of girls was low, particularly in rural areas where a combination of poverty and socio-cultural factors influenced parents' decisions not to send girls to school. The Government implemented a countrywide program to pay school fees for all girls.

Authorities generally intervened when cases of child abuse or mistreatment were brought to their attention; however, there was no societal pattern of abuse against children. Any person who has carnal knowledge of a girl under the age of 16 is guilty of a felony (except in the case of marriage, which can be as early as 12 years of age). Incest also is illegal. These laws generally were enforced. Serious cases of abuse and violence against children were subject to criminal penalties.

FGM was performed primarily on young girls (see Section 5, Women). There were no developments in the 2002 case of forcible circumcision of a 13-year-old girl in Tanji village.

Trafficking of children for prostitution was a problem (see Section 6.f.).

Child labor was a problem (see Section 6.d.).

#### Persons with Disabilities



There were no statutes or regulations requiring accessibility for persons with disabilities. No legal discrimination against persons with physical disabilities existed in employment, education, or other state services. Some societal discrimination exists towards those with disabilities. Persons with severe disabilities subsisted primarily through private charity. Persons with less severe disabilities were accepted fully in society, and they encountered no discrimination in employment for which they physically were capable. Very few buildings in the country were specifically accessible to persons with disabilities.

## Section 6 Worker Rights

### a. The Right of Association

The Labor Act, which applies to all workers except civil servants, specifies that workers are free to form associations, including trade unions, and workers exercised this right in practice. Unions must register to be recognized, and there were no cases where registration was denied to a union that applied for it. The Labor Act specifically prohibits police officers and military personnel, as well as other civil service employees, from forming unions. Approximately 20 percent of the work force was employed in the modern wage sector, where unions were most active. Approximately 30,000 workers were union members, constituting an estimated 10 percent of the work force.

The Gambian Worker's Confederation and the Gambian Workers' Union (GWU) were the two main independent and competing umbrella organizations. The Government recognized both organizations.

Employers may not fire or discriminate against members of registered unions for engaging in legal union activities, and the Government has intervened to assist workers who have been fired or discriminated against by employers.

Unions and union confederations may affiliate internationally, and there were no restrictions on union members' participation in international labor activities. The GWU was a member of the International Confederation of Free Trade Unions.

### b. The Right to Organize and Bargain Collectively

The Labor Act allows workers to organize and bargain collectively. Although trade unions were small and fragmented, collective bargaining took place. The Joint Industrial Council Agreement (JIC), an arrangement among all of the active trade unions and their employers that was drafted and signed by the unions, provides guidance for union activities. Unions were able to negotiate without government interference; however, in practice, the unions lacked experience, organization, and professionalism, and often turned to the Government for assistance in negotiations. Union members' wages, which generally exceeded legal minimums, were determined by collective bargaining, arbitration, or agreements reached between unions and management that were considered legal after insuring that the agreements were in compliance with the JIC. The Act also sets minimum contract standards for hiring, training, terms of employment, and provides that contracts may not prohibit union membership.

The Labor Act authorizes strikes but requires that unions give the Commissioner of Labor 14 days' written notice before beginning an industrial action (28 days for essential services). The Labor Act specifically prohibits police officers and military personnel, as well as other civil service employees, from striking. It prohibits retribution against strikers who comply with the law regulating strikes. Upon application by an employer to a court, the court may prohibit industrial action that is ruled to be in pursuit of a political objective. The court also may forbid action judged to be in breach of a collectively agreed procedure for settlement of industrial disputes. Because of these provisions and the weakness of unions, few strikes occurred. There were no strikes during the year.

There is a Government-established export-processing zone (EPZ) at the port of Banjul and the adjacent bonded warehouses. The Labor Code covers workers in the EPZs, and they were afforded the same rights as workers elsewhere in the economy.

### c. Prohibition of Forced or Bonded Labor

The Constitution prohibits forced or bonded labor, and there were no reports that such practices occurred. The law does not specifically prohibit forced and bonded labor by children; however, there were no reports that such practices occurred.

### d. Status of Child Labor Practices and Minimum Age for Employment

Child labor was a problem, and the Government did not have a comprehensive plan to combat child labor. The statutory minimum age for employment is 14 years. There was no effective compulsory education, and because of limited secondary school openings, most children completed formal education by the age of 14 and then began work. Employee labor cards, which include a person's age, were registered with the Labor Commissioner, who was authorized to enforce child labor laws; however, enforcement inspections rarely took place. Child labor protection does not extend to youth performing customary chores on family farms or engaged in petty trading. In rural areas, most children assisted their families in farming and housework. In urban areas, many children worked as street vendors or taxi and bus assistants. There were a few instances of children begging on the street. The tourist industry stimulated a low level of child prostitution (see Section 5). The Department of Labor under the Department of State for Trade and Employment was responsible for implementing the provisions of the ILO Convention 182 on the worst forms of child labor; however, the Government generally was ineffective in enforcing those provisions.

#### e. Acceptable Conditions of Work

Minimum wages and working hours were established by law through six joint industrial councils, comprised of representatives from labor, management, and the Government. The lowest minimum wage was approximately \$0.38 (12 dalasi) per day for unskilled labor. This minimum wage was not sufficient to provide a decent standard of living for a worker and family. The minimum wage law covers only 20 percent of the labor force, essentially those workers in the formal economic sector. A majority of workers were employed privately or were self-employed, often in agriculture. Most citizens did not live on a single worker's earnings and shared resources within extended families.

The basic legal workweek was 48 hours within a period not to exceed 6 consecutive days. Nationwide, the workweek included four 8-hour workdays and two 4-hour workdays (Friday and Saturday). A 30-minute lunch break was mandated. Government employees were entitled to 1 month of paid annual leave after 1 year of service. Private sector employees received between 14 and 30 days of paid annual leave, depending on length of service.

The Labor Act specifies safety equipment that an employer must provide to employees working in designated occupations. The Factory Act authorizes the Department of Labor to regulate factory health and safety, accident prevention, and dangerous trades, and to appoint inspectors to ensure compliance with safety standards. Enforcement was inconsistent due to insufficient and inadequately trained staff. Workers may demand protective equipment and clothing for hazardous workplaces and have recourse to the Labor Department. The law provides that workers may refuse to work in dangerous situations without risking loss of employment; however, in practice workers who do so risk loss of employment.

The law protects foreign workers employed by the Government; however, it only provides protection for privately employed foreigners if they have a current valid work permit. Illegal foreign workers without valid work permits do not enjoy protections under the law. Legal foreign workers may join local unions.

#### f. Trafficking in Persons

The law prohibits trafficking in persons; however, there were reports of trafficking in persons. The Government does not consider trafficking in persons to be a serious problem; however, recent reports of child prostitution (the most prevalent aspect of trafficking) caused the Government to expand its efforts to combat prostitution in general and child prostitution in particular. The Government had not prosecuted anyone for trafficking by year's end.

A joint report from the Dutch NGO Terre des Hommes (TDH) and the Gambian Child Protection Alliance (CPA) concluded that large scale "child sex tourism" existed. The study alleged that Dutch, British, Swedish, Norwegian, German, and Belgian tourists sexually exploited children under the pretext of improving their conditions and giving them "opportunity". Victims were children of both sexes, normally less than 16 to 18 years old, and included both citizens and immigrants or refugees from Sierra Leone, Liberia, Senegal, and Guinea-Bissau. The foreign children were war migrants without proper family support.

Some child prostitution victims stated they worked to support their families, or because they were orphans and their guardian/procurer supported them. The guardian/procurer often assumed the role of the African uncle, allowing the children to live in his compound with their younger siblings or paying school fees on their behalf in return for their servitude.

The country was a destination for trafficking victims. The number of persons, mostly children, trafficked for commercial sexual exploitation was small but growing. Most trafficking victims became prostitutes and beggars; a few became domestic servants. Trafficking victims mostly came from conflict-ravaged countries, such as Liberia

and Sierra Leone. Victims from Senegal, Guinea-Bissau, and Sierra Leone told TDH and CPA that foreign residents obtained permission from their home country families to employ them as bar waitresses or domestic maids. After their arrival, the local employers informed them their duties entailed commercial sex work.

The country was also a point of origin and transit for trafficking. A few citizens were trafficked to Western Europe. In addition, some Senegalese and Bissau-Guineans reportedly were trafficked through the country to Western Europe, mostly to Scandinavia.

There was no evidence of government involvement at any level in trafficking in persons.

The Government had no established victim care and health facilities for trafficked persons; however, the Government provided temporary shelter and access to medical and psychological services to reported victims of trafficking.

In 2002, President Jammeh signed the Economic Community of West African States (ECOWAS) Plan of Action Against Trafficking in Persons for 2002-03. The Government's coordinator for the ECOWAS Action Plan was the Department of State for Justice, which was designated as the liaison among government agencies and other ECOWAS countries.